

PATENT
Atty. Dkt. No.: 8036-US1 (23336-2059)

Remarks

Claims 19-21 remain pending in the present application, to which claims 22-28 have been added. It is respectfully submitted that the pending claims define allowable subject matter.

Initially, it is submitted that the outstanding Office Action does not constitute a properly Office Action on the merits. MPEP section 706.07 provides that each grounds of rejection of record should be carefully reviewed and any such grounds relied on in the "final rejection should be reiterated." In the prior Office Action dated June 23, 2005, claims 19-21 were rejected under 35 USC 102(b) based on Grawe, and were separately rejected under 35 USC 102(b) based on Stern. In response thereto, claim 19 was amended to define the method to comprise producing a "slow-draining" foam and distinguishing arguments were made. However, the final Office Action does not restate either 102(b) rejection and does not indicate whether either or both of the 102(b) rejections are maintained or withdrawn. Instead, in the outstanding Office Action, it is maintained that the term "slow-draining" is not sufficiently clear to provide an objective comparison of the invention with the prior art. Yet no indefiniteness rejection is maintained. Therefore, the undersigned is not clear as to what are the present grounds of rejection. It is respectfully submitted that the finality of the Outstanding Office Action should be withdrawn and a new Office Action mailed setting forth the complete grounds of rejection.

Notwithstanding the above, to advance prosecution, the following comments and the above additional claims are submitted. It is submitted that the specification clearly and precisely defines "slow-draining". At page 3, lines 3-7, it is explained that 3 factors have been suggested to control foam stability. In the first stage of foam life, water drainage may primarily control foam stability. As the water drains from the foam, the film thins to a small thickness. The bubbles then collapse and coalesce until, near the final stage, the foam becomes so thin that the foam blanket breaks and is breached. The present specification at page 5, lines 3-10, explains that the non-neutral PH foam is "sufficiently PH-tolerant and slow-draining to remain as a substantially continuous blanket over the spill at least about 15 minutes, more preferably at least

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about 30 to 60 minutes even when the pH difference between the foam and the original spill is 8 pH units or more, preferably even 12 pH units or more.” (emphasis added)

At pages 13-14, an example 1 is provided in which the foam is applied as a substantially continuous 2 inch thick blanket over a 10-12% chlorine dioxide solution having a pH of 1.8. The pH of the chlorine dioxide spill was measured every 2 minutes over one hour. The pH of the underlying solution was neutralized to a pH of greater than 8 after 14 minutes. The foam blanket remained intact during the neutralization reaction with no substantial breaks or breaches in the foam. At pages 14-15, example 2 is provided that identifies the spill and the foam content. In example 2, it is further explained that the foam was applied as a 2 inch thick blanket over the spill and remained intact throughout the neutralization reaction. The pH of the underlying solution was neutralized to a pH of greater than 8 after 12 minutes. At page 15, in example 3, the foam was applied in a 1 inch thick blanket and remained intact for at least 8 minutes (the time elapsed before the underlying solution was neutralized).

Based on the above discussion and examples from the present application, it is submitted that the present application provides a clear and requisite degree of detail to enable an objective comparison of the claimed invention to the prior art. Therefore, it is believed that the claims as presented on October 21, 2005 are clear and definite as to what constitutes a “slow-draining” foam.

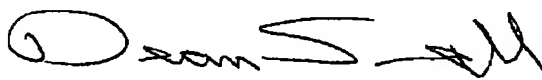
Moreover, it is submitted that the prior art fails to teach or suggest the claimed method. Stern describes a treatment of hazardous materials with aqueous air foam of polyhydroxy polymer. Stern lacks any discussion of blanket thickness or an amount of time over which water drains from the foam blanket before breaks in the foam blanket occur. Grawe describes an abatement process for contaminants, namely a process for cleaning a surface contaminate. Grawe does not describe a method for producing a foam blanket, let alone suggest a need to control a rate at which water drains from the foam. In view of the foregoing, it is submitted that neither Stern, nor Grawe, teach or suggest the claimed method.

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Finally, new claims 22-30 have been added to further recite details of the slow-draining foam. Claims 22-24 require the foam to remain as a substantially continuous blanket of constant thickness for at least about 15 minutes, 30 minutes and 60 minutes, respectively. Claims 25-30 require the foam to remain as a substantially continuous blanket of constant thickness for at least certain time periods and for specific pH differences. Nothing in the prior art teaches or suggests any desire to maintain the claimed water drainage conditions.

In view of the foregoing comments, it is respectfully submitted that the prior art fails to teach or suggest the claimed invention. Should anything remain in order to place the present application in condition for allowance, the Examiner is kindly invited to contact the undersigned at the telephone number listed below.

Respectfully Submitted,



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